

ONA WINS



SUMMARY OF ANOTHER SUCCESS AS YOUR UNION STRIVES TO IMPROVE YOUR WORKING CONDITIONS

INJURY DURING BREAK COMPENSABLE “ACCIDENT,” WSIB CONCLUDES

A significant Workplace Safety and Insurance Board (WSIB) appeal confirms that members' entitlements to benefits during breaks is settled law.

On March 15, 2018, an ONA member was cutting a piece of fruit with a knife while on a break at work. The knife went through the pit and into her palm resulting in a laceration to the left third digit. She lost one pre-scheduled overtime shift the following day and returned to modified duties on March 21, 2018.

The employer objected to the allowance of initial entitlement, arguing that the incident was not work-related and that her actions at the time of injury were not related to her work. They also asserted that the accident should not be considered a compensable “accident” because it did not meet the definition of a “chance event.” Specifically, the employer claimed that although eating on one’s break is an “incidental need,” the action of cutting a piece of fruit in one’s hand is not something reasonably expected of the worker. Therefore, the action was not incidental to her employment.

ONA argued that the WSIB decision correctly interprets and applies board policy, and that the Workplace Safety and Insurance Act includes the protection of workers during intervals, such as breaks, when they are not performing regular work. Our view is that when a worker is on an employer’s premises engaged in an activity that is reasonably expected, the worker is in the course of her/his employment.

The WSIB accepted ONA’s view, stating, “The activity was not so personal or removed from the activity of being at work that it would be expected to disentitle the worker to benefits.” As a result, the WSIB denied the employer’s appeal.

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